



PRELIMINARY DRAFT

No. 3165

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2014 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 30-5-5-10.

Synopsis: Power of attorney. Defines the terms "fiduciary" and "fund" for purposes of a statute concerning powers granted to an attorney in fact with respect to fiduciary transactions of the principal. Provides that the powers granted to an attorney in fact apply: (1) to a fund existing at the time the power of attorney is executed; (2) to a fund created after the power of attorney is executed; and (3) whether or not the fund is located in Indiana.

Effective: July 1, 2014.



A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 30-5-5-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) Language
3 conferring general authority with respect to fiduciary transactions
4 means the principal authorizes the attorney in fact to do the following
5 if the principal has the authority to delegate:

6 (1) Apply for and procure, in the name of the principal, letters of
7 administration, letters testamentary, letters of guardianship, or any
8 other type of judicial or administrative authority to act as a
9 fiduciary.

10 (2) Represent and act for the principal in all ways and in all
11 matters affecting a fund with respect to which the principal is a
12 fiduciary.

13 (3) Initiate, participate in, and oppose a proceeding, judicial or
14 otherwise, for the removal, substitution, or surcharge of a
15 fiduciary, conserve, invest, or disburse anything received for the
16 purposes of the fund for which it is received, and reimburse the
17 attorney in fact for expenditures properly made by the attorney in
18 fact in the execution of powers conferred on the attorney in fact.

19 (4) Agree and contract in any manner and on any terms with a
20 person the attorney in fact selects to accomplish a purpose
21 permitted under this section and perform, rescind, reform, release,
22 or modify an agreement or contract made by or on behalf of the
23 principal.

24 (5) Execute, acknowledge, verify, seal, file, and deliver a consent,
25 a designation, a pleading, a notice, a demand, an election, a
26 conveyance, a release, an assignment, a pledge, a check, a waiver,
27 an admission of service, a notice of appearance, or other
28 instrument the attorney in fact considers useful to accomplish a
29 purpose permitted under this section.

30 (6) Hire, discharge, and compensate an attorney, accountant,
31 expert witness, or other assistant when the attorney in fact



1 considers the action to be desirable for the proper execution by
2 the attorney in fact of a power described in this section and keep
3 needed records.

4 (7) Perform any other acts with respect to a fund of which the
5 principal is a fiduciary.

6 (b) The powers described in this section are exercisable equally with
7 respect to a fund of which the principal is a fiduciary at the time of the
8 giving of the power of attorney or becomes a fiduciary after that time,
9 whether located in Indiana or in another jurisdiction.

10 (c) As used in this section, "fiduciary" means a trustee, personal
11 representative, guardian, attorney in fact, custodian, escrow agent,
12 or person similarly authorized to act primarily for the benefit of
13 another person.

14 (d) As used in this section, "fund" means any asset, including
15 real or personal property, in which a principal has an interest as
16 a fiduciary.

17 (e) The powers granted in this section apply:

18 (1) to a fund existing at the time the power of attorney is
19 executed;

20 (2) to a fund created after the power of attorney is executed;
21 and

22 (3) whether or not the fund is located in Indiana.

